

## CHAPTER 17 OPEN ENROLLMENT

**281—17.1(282) Intent and purpose.** It is the intent of Iowa Code section 282.18 to maximize parental choice in providing a wide range of educational opportunities which are not available for pupils because of where they live. It is the purpose of this chapter to give guidance and direction to parents/guardians, public school district administrators and boards in making quality decisions regarding school district choice for the education of pupils.

**281—17.2(282) Definitions.** For the purpose of this chapter the indicated terms are defined as follows:

*“Alternative receiving district”* is a district to which a parent/guardian petitions for the open enrollment transfer of a pupil from a receiving district. An alternative receiving district could be the district of residence of the parents/guardians.

*“Economic eligibility requirements”* relate to family household income levels that qualify the parent/guardian for transportation assistance from the resident district for an open enrollment pupil.

*“Good cause”* is a condition that occurs after the open enrollment filing deadline of October 30 related to change in the status of a pupil’s residence or change in the status of a pupil’s resident district that qualifies the parent/guardian to file a request for open enrollment which shall be considered in the same manner as if the deadline had been met.

*“Nuclear family”* is a family group that consists of the mother and father and their children in a two-parent family or all children in a family group for which a single parent/guardian(s) has custody and responsibility.

*“Open enrollment”* is the procedure allowing a parent/guardian to enroll one or more pupils in a public school district other than the district of residence at no tuition cost.

*“Receiving district”* is the public school district in which a parent/guardian desires to have the pupil enrolled or the district accepting the application for enrollment of a pupil under the provisions of Iowa Code section 282.18.

*“Resident district”* is the district of residence for school purposes of the parent/guardian and the district in which an open enrollment pupil shall be counted for the purpose of generating state aid regardless of the district in which the pupil is enrolled.

*“Sending district”* is synonymous with the term resident district.

*“Timely filed application”* includes an open enrollment request postmarked or hand-delivered on or before January 1, an open enrollment request for “good cause” as defined in Iowa Code section 282.18(18) postmarked or hand-delivered on or before June 30, an open enrollment request filed for a continuation of an educational program postmarked or hand-delivered on or before the third Thursday of the following September, and an open enrollment request for an entering kindergarten student postmarked or hand-delivered on or before June 30.

*“Volunteer or court-ordered desegregation”* is a district that is either under direct court order or is in voluntary compliance with state board of education guidelines to maintain certain minority-nonminority pupil ratios in the district according to a desegregation plan or order.

**281—17.3(282) Application process for the 1990-1991 and subsequent school years.** The following procedures shall be used by parents/guardians and school districts in processing open enrollment applications.

**17.3(1) Parent/guardian responsibilities.** Between July 1 and January 1 of the school year preceding the school year for which open enrollment is requested, a parent/guardian shall formally notify the district of residence of the request for open enrollment. The request for open enrollment shall be made on forms provided by the department of education. The parent/guardian is required to indicate on the form if the request is for a pupil requiring special education, as provided by Iowa Code chapter 256B. The forms for open enrollment application are available from each public school district, area education agency, and the state department of education.

**17.3(2) School district responsibilities.** The board of the resident district shall act on an open enrollment request by no later than February 1 of the year preceding the school year for which the request is made. If the request is denied, the parent/guardian shall be notified by the district superintendent within three days following board action and a copy of the application form, indicating the action taken, shall be filed with the department of education. If the request is approved, the district superintendent shall forward the approved application form to the receiving district within five days following board action and shall notify the parent/guardian within three days of this action.

The board of the receiving district shall act to approve or deny an open enrollment request by no later than March 1 following receipt of the request from the resident district. The receiving district superintendent shall provide notification of either approval or denial of the request to the parent/guardian and to the resident district within 15 days of board action and shall file a copy of the application form, indicating the final action on the request, with the department of education.

As an alternative procedure, either the resident board or the receiving board may by policy authorize the superintendent to approve, but not deny, timely filed applications. The board shall have the discretion to determine the scope of the authorization. The authorization may be for regular applications filed by January 1, good cause applications filed by June 30, kindergarten applications filed by June 30, continuation applications filed by the third Thursday of the following September, or any combination that the board determines. The same timelines for approval, forwarding, and notification shall apply.

The parent/guardian may withdraw an open enrollment request anytime prior to the first day of school in the resident district. After the first day of school, an open enrollment request can only be changed during the term of the approval by the procedures of subrules 17.8(3) and 17.8(4).

Boards of the resident and receiving districts shall comply with the provisions of rule 17.11(282) if the application for open enrollment is for a pupil requiring special education as provided by Iowa Code chapter 256B.

By September 30 of each school year, the district shall notify parents of open enrollment deadlines, transportation assistance, and possible loss of athletic eligibility for open enrollment pupils. This notification may be published in a school newsletter, a newspaper of general circulation, or a parent handbook provided to all patrons of the district. This information shall also be provided to any parent/guardian of a pupil who transfers into the district during the school year.

**281—17.4(282) Filing after the January 1 deadline—good cause.** A parent/guardian may apply for open enrollment after the filing deadline of January 1 and until June 30 of the school year preceding the school year for which open enrollment is requested if good cause exists for the failure to meet the deadline. Good cause is a change in the status of the pupil's residence or a change in the status of the pupil's resident district taking place after January 1, or the closing or loss of accreditation of a nonpublic school of attendance after January 1 resulting in the desire of the parent/guardian to obtain open enrollment for the following school year. If good cause can be established, the parent/guardian shall be permitted to apply for open enrollment in the same manner as if the deadline had been met.

Consideration of an open enrollment request filed under the provision of good cause, with the exception of the options provided in rule 17.5(282), does not preclude the authority, as appropriate, for the resident or receiving district to administer board policy related to insufficient classroom space or the requirements of a desegregation plan or order in acting to approve or deny the request. (See subrules 17.6(2) and 17.6(3).)

**17.4(1)** Good cause related to change in the pupil's residence shall include:

*a.* A change in the family residence due to the family's moving from the district of residence anytime from January 1 through June 30 of the school year preceding the school year for which open enrollment is requested.

*b.* A change in the state of residence allowing a parent/guardian moving into an Iowa school district from out of state to obtain open enrollment to a different district from their new district of residence.

*c.* A change in the marital status of the pupil's parents.

*d.* A guardianship proceeding.

*e.* Placement of the child in foster care.

*f.* Adoption.

*g.* Participation in a foreign exchange program.

*h.* Participation in a substance abuse or mental health treatment program.

*i.* A similar set of circumstances related to the resident status of the child consistent with the provisions of good cause.

**17.4(2)** Good cause related to change in status of the pupil's resident district or nonpublic school of attendance shall include:

*a.* Reorganization action.

(1) Failure of the area education board to vote in favor of a reorganization proposal,

(2) Failure of the area education board to act on objections to exclude territory from a reorganization proposal,

(3) Failure of a reorganization election,

(4) Passage of a reorganization proposal between October 30 and November 30 allowing for the establishment of the new district for the subsequent school year.

*b.* Dissolution action.

(1) Failure of a dissolution commission to make a recommendation to the board of directors,

(2) Failure of the board to take positive action on objections filed by residents of the district to a dissolution proposal,

(3) Failure of contiguous districts to accept a dissolution proposal,

(4) Failure of an election on a dissolution proposal.

c. Whole grade sharing action.

(1) Failure of the board to pursue negotiations for a whole grade sharing proposal for which it has given public notice by board action of its intent to pursue,

(2) Failure of the board to approve a request by a parent/guardian to send an affected pupil to a contiguous district rather than to the district party to the agreement,

(3) Failure of the board to extend or renew a whole grade sharing agreement,

(4) Unilateral rejection by one board of a whole grade sharing agreement prior to expiration of the term of the agreement.

d. Loss of accreditation.

(1) Removal of accreditation by the state board after January 1.

(2) Surrender of accreditation after January 1.

(3) Permanent closure of a nonpublic school after January 1.

e. A similar set of circumstances related to change in status of the resident district of a pupil consistent with the provisions of good cause.

On open enrollment requests for good cause related to a change in status of the pupil's school district of residence, action by a parent/guardian must be taken to file notification within 45 days of the last board action or within 30 days of the certification of an election, whichever circumstance is applicable.

**17.4(3)** A similar set of circumstances related to change in residence of the pupil or change in status of the resident district shall not include:

a. Actions of a board of education in the designation of attendance centers within a school corporation and in the assignment of pupils to such centers as provided by Iowa Code section 279.11.

b. Actions of a board of education in making its own rules of government for the internal organization and operation of the school corporation as provided by Iowa Code section 279.8.

**17.4(4)** If a request for open enrollment related to good cause is denied by the resident district, the parent/guardian may appeal this decision to the director of the department of education or to the state board of education under Iowa Code chapter 290, but not both.

**17.4(5)** Timelines for board action on applications filed after January 1 for good cause. Boards shall utilize the basic time frames established in subrule 17.3(2) in acting on open enrollment requests filed by a parent/guardian citing good cause as defined in subrules 17.4(1) and 17.4(2). The board of the resident district shall act on the request within 30 days of its receipt. As an alternative procedure, the board may by policy authorize the superintendent to approve, but not deny, such applications. The same timelines for approval, forwarding, and notification shall apply. If the request is denied, the parent/guardian shall be notified by the district superintendent within three days following board action and a copy of the application form, indicating the action taken, shall be filed with the department of education. If the request is approved, the district superintendent shall forward the approved application form to the receiving district within five days following board action and shall notify the parent/guardian within three days of this action.

The board of the receiving district shall act to approve or deny an open enrollment request within 30 days following receipt of the request from the resident district. The receiving district superintendent shall provide notification of either approval or denial of the request to the parent/guardian and to the resident district within 15 days of board action and shall file a copy of the application form indicating the final action on the request with the department of education.

**281—17.5(282) Good cause exception.** Rescinded IAB 12/8/93, effective 1/12/94.

**281—17.6(282) Restrictions to open enrollment requests.** A district board may exercise the following restrictions related to open enrollment requests.

**17.6(1) *Enrollment loss caps.*** Rescinded IAB 12/8/93, effective 1/12/94.

**17.6(2) *Volunteer or court-ordered desegregation.*** In districts involved with voluntary or court-ordered desegregation (see 17.2(282)) where there is a requirement to maintain minority and nonminority student ratios according to a desegregation plan or order, the superintendent of the district may deny a request for open enrollment transfer if it is found that the enrollment or release of a pupil will adversely affect the district's desegregation plan or order. Transfer requests that would facilitate the desegregation plan or order shall be given priority to other transfer requests received by the district. A parent/guardian whose request for open enrollment transfer is denied by the superintendent of the district on the basis of its adverse effect on the district's desegregation plan may appeal that decision to the district board.

**17.6(3) *Policy on insufficient classroom space.*** No receiving district shall be required to accept an open enrollment transfer request if it has insufficient classroom space to accommodate the pupil(s). Each district board shall adopt a policy which defines the term "insufficient classroom space" for that district. This policy shall establish a basis for the district to make determinations on the acceptance or denial, as a receiving district, of an open enrollment transfer request. This policy may include, but shall not be limited to, one or more of the following: nature of the educational program, grade level, available instructional staff, instructional method, physical space, pupil-teacher ratio, equipment and materials, facilities either being planned or under construction, facilities planned to be closed, finances available, sharing agreement in force or planned, bargaining agreement in force, law or rules governing special education class size, or board-adopted district educational goals and objectives. This policy shall be reviewed annually by the district board.

**17.6(4) *Designation of attendance center.*** The right of a parent/guardian to request open enrollment is to a district other than the district of residence, not to an attendance center within the nonresident district. In accepting an open enrollment pupil, the receiving district board has the same authority it has in regard to its resident pupils as provided by Iowa Code section 279.11, to "determine the particular school which each child shall attend." In the application process, however, the parent or guardian may request an attendance center of preference.

**281—17.7(282) Open enrollment for kindergarten.** While the regular time frame in requesting open enrollment is that an application should be made no later than January 1 of the school year preceding the school year for which the enrollment is requested, a parent/guardian requesting to enroll a kindergarten pupil in a district other than the district of residence may make such application through June 30 of that school year. In considering an application for a kindergarten pupil the resident and the receiving district are not precluded from administering board-adopted policies related to enrollment loss caps, insufficient classroom space or the requirements of a desegregation plan or order.

As an alternative procedure, either the resident board or the receiving board may by policy authorize the superintendent to approve, but not deny, timely filed applications under this rule. The timelines established in rule 17.4(282) shall apply to applications for a kindergarten pupil.

**281—17.8(282) Requirements applicable to parents/guardians and students.**

**17.8(1) *Eligibility for transfer.*** A pupil who has been suspended or expelled by action of the administration or board of the resident district shall not be permitted to transfer if an open enrollment request is filed until the pupil is reinstated for school attendance in the resident district. Once reinstated, the application for transfer shall be considered in the same manner as any other open enrollment request. If a pupil for which an open enrollment request has been filed is subsequently expelled by action of the resident district board, the pupil may be denied transfer by the receiving district board until the pupil is reinstated for school attendance by the resident district. The parent/guardian may appeal the decision to deny transfer by the receiving district to the director of the department of education. If the decision of the director is to allow the transfer, this action shall be conditioned upon the expiration of the expulsion imposed by the resident district. The provisions of this subrule shall also apply to a pupil who has been suspended or expelled in a receiving district and is requesting open enrollment transfer to an alternative receiving district or is seeking to return to the resident district as outlined in subrule 17.8(4).

**17.8(2) *Restrictions on participation in interscholastic athletic contests and competitions.*** A pupil who transfers school districts under open enrollment in any of the grades 10 through 12 shall not be eligible to participate in interscholastic contests and competitions during the first 90 school days of transfer. This restriction also shall apply to transfers resulting from an approved petition filed by a parent or guardian to transfer to an alternative receiving district and when the pupil returns to the district of residence using the process outlined in subrule 17.8(4). This 90-school-day restriction does not prohibit the pupil from practicing with an athletic team during the 90 school days of ineligibility. This 90-school-day restriction is not applicable to a pupil who:

a. Participates in an athletic activity in the receiving district that is not available in the district of residence.

b. Participates in an athletic activity for which the resident district and the receiving district have a "cooperative student participation agreement" in place as provided by rule 281—36.20(280).

c. Has paid tuition for one or more years to the receiving school district prior to making application and being approved for open enrollment.

d. Has attended the receiving district for one or more years, prior to making application and being approved for open enrollment, under a sharing or mutual agreement between the resident district and the receiving district.

e. Has been participating in open enrollment and whose parents/guardians move out of their district of residence but exercise the option of maintaining the open enrollment agreement as provided in subrule 17.8(6). If the pupil has established athletic eligibility under open enrollment, it is continued despite the parent's or guardian's change in residence.

f. Obtains open enrollment as provided in subrule 17.8(7).

g. Obtains open enrollment due to the dissolution and merger of the former district of residence under Iowa Code subsection 256.11(12).

h. Obtains open enrollment due to the pupil's district of residence entering into a whole-grade sharing agreement on or after July 1, 1990, including the grade in which the pupil would be enrolled at the start of the whole-grade sharing agreement.

i. Participates in open enrollment and the parent/guardian is an active member of the armed forces and resides in permanent housing on government property provided by a branch of the armed services.

j. Is enrolled in an accredited nonpublic high school because the pupil's district of residence has entered into a whole-grade sharing agreement for the pupil's grade with another district.

**17.8(3)** *Term of enrollment.* Rescinded IAB 10/9/96, effective 11/13/96.

**17.8(4)** *Petition for attendance in an alternative receiving district.* Once the pupil of a parent/guardian has been accepted for open enrollment, attendance in an alternative receiving district under open enrollment can be initiated by filing a petition for change with the receiving district. The petition shall be filed by the parent/guardian with the receiving district by January 1 of the year preceding the school year for which the change is requested. The timelines and notification requirements for such a request shall be the same as outlined in subrule 17.3(2). If the request is approved, the alternative district shall send notice of this action to the parent/guardian, to the district filing the transfer, and to the resident district of the pupil. Petitions for transfer shall be effectuated at the start of the next school year.

As an alternative procedure, the receiving and alternative receiving district boards by mutual agreement may effectuate the transfer of an open enrollment pupil at any time following receipt of a written request for transfer which is approved by the two boards. The parent/guardian and the resident district board shall be notified of the approval and the date for transfer within 15 days of the mutual agreement action of the receiving and alternative receiving boards.

The record of approval action on any petition for transfer shall be filed with the department of education by the alternative receiving district.

A pupil in good standing may return to the district of residence at any time following written notice from the parent/guardian to both the resident district and the receiving district.

**17.8(5)** *Renewal of an open enrollment agreement.* An open enrollment agreement shall remain in place unless canceled by the parent/guardian or terminated as outlined in the provisions of subrule 17.8(10).

**17.8(6)** *Change in residence when participating in open enrollment.* If the parent/guardian of a pupil who is participating in open enrollment changes the school district of residence during the term of the agreement, the parent/guardian shall have the option to leave the pupil in the receiving district under open enrollment or to enroll the pupil in the new district of residence, thus terminating the open enrollment agreement. If the choice is to leave the pupil under open enrollment, the original district of residence shall be responsible for payment of the cost per pupil plus any applicable weightings or special education costs for the balance of the school year, if any, in which the move took place, providing the move took place after the third Friday in September. The new district of residence shall be responsible for these payments during succeeding years of the agreement.

If the move takes place between the end of one school year and the third Friday in September of the following school year, the new district of residence shall be responsible for that year's payment as well as succeeding years.

If the pupil is to remain under open enrollment, the parent/guardian shall write a letter, delivered by mail or by hand prior to the third Thursday of the next September, to notify the original resident district, the new resident district, and the receiving district of this decision.

Timely requests under this rule shall not be denied. If the request is for a high school pupil, the pupil shall not be subject to the initial 90-school-day ineligibility period of subrule 17.8(2).

**17.8(7) *Change in residence when not participating in open enrollment.*** If a parent/guardian moves out of the school district of residence, and the pupil is not currently under open enrollment, the parent/guardian has the option for the pupil to remain in the original district of residence as an open enrollment pupil with no interruption in the education program. The parent/guardian exercising this option shall file an open enrollment request form with the new district of residence for processing and record purposes. This request shall be made no later than the third Thursday of the following September. Timely requests under this subrule shall not be denied. If the request is for a high school pupil, the pupil shall not be subject to the initial 90-school-day ineligibility period of subrule 17.8(2). If the move is after the third Friday in September, the new district of residence is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment transfer.

**17.8(8) *Pupil governance.*** An open enrollment pupil, and where applicable the pupil's parent/guardian, shall be governed by the rules and policies established by the board of directors of the receiving district. Any complaint or appeal by the parent/guardian concerning the educational system, its process, or administration in the receiving district shall be initially directed to the board of directors of that district in compliance with the policy of that district.

**17.8(9) *Appeal procedure.*** A parent/guardian may appeal the decision of the board of directors of a school district (resident or receiving) on any matter related to open enrollment. This appeal is to the state board of education and shall comply with the provisions of Iowa Code section 290.1; the appeal shall be filed within 30 days of the decision of the district board, it shall be in the form of an affidavit signed by the parent/guardian, and it shall state in a plain and concise manner what the parent/guardian feels to be the basis for appeal.

In addition, and as an alternative to an appeal to the state board of education under Iowa Code section 290.1, a parent/guardian may file an appeal to the director of the department of education on the following open enrollment decisions:

*a.* Denial by the resident district board of a request for open enrollment for failure on the part of the parent/guardian to show good cause in not meeting the filing deadline.

*b.* Denial by a receiving district to approve an open enrollment transfer for a pupil that has been expelled from school in the resident district.

If a parent/guardian files an appeal to the director of the department of education, this precludes the ability to file the same appeal to the state board of education.

**17.8(10) *Open enrollment termination.*** Open enrollment ends when:

*a.* The pupil graduates, moves into the receiving district, moves into a third district and does not elect to continue attending in the receiving district, moves out of state, elects to attend a nonpublic school instead of the receiving district, or any other circumstance not excepted below that results in the pupil no longer attending the receiving district.

**EXCEPTIONS:** This rule shall not apply if the pupil is placed temporarily in foster care, a juvenile detention center, mental health or substance abuse treatment facility, or other similar placement. In such cases, the open enrollment status will automatically be reinstated when the pupil returns.

*b.* The pupil drops out of school. In this instance, if the pupil desires to return to the resident district during the term of the original open enrollment, notice must be given as outlined in the provisions of subrule 17.8(4).



**281—17.9(282) Transportation.**

**17.9(1) *Parent responsibilities.*** The parent/guardian of a pupil who has been accepted for open enrollment shall be responsible to transport the pupil without reimbursement, except as provided in subrule 17.9(2), to and from a point on a regular school bus route of the receiving district. This point shall be a designated stop on the bus route of the receiving district. If this point—designated stop—is within the distances established by Iowa Code section 285.1 from the school designated for attendance by the receiving district, that district may, but is not required to, provide transportation for an open enrollment pupil. A receiving district may send buses into a resident district solely for the purpose of transporting an open enrollment pupil if the boards of both the sending and receiving districts agree to this arrangement. Bus routes that are outside the boundary of the receiving district that have been authorized by an area education agency board of directors, as provided by Iowa Code subsection 285.9(3), may be used to transport open enrollment pupils if boards of directors of the resident and receiving districts have both taken action to approve such an arrangement. Bus routes that have been established by the receiving district for the purpose of transporting nonpublic school or special education pupils that operate in the resident district of an open enrollment pupil shall not be utilized for the transportation of such pupil for the portion of the route that is within the resident district unless the boards of directors of the resident and receiving districts have both taken action to approve such an arrangement. Bus routes transporting pupils for the purpose of whole-grade sharing shall not be used to transport open enrollment pupils for the portion of the route that is within the resident district unless the boards of directors of the resident and receiving districts have both taken action to approve such an arrangement.

**17.9(2) *Qualifications and provisions for transportation assistance.*** Open enrollment pupils that meet the economic eligibility requirements established by the department of education shall receive transportation assistance from their resident district under the following conditions. The resident district is not required to provide any transportation assistance for a pupil involved in open enrollment with a district that is not contiguous with the pupil's resident district. The resident district shall provide transportation for the pupil to a point that is a designated stop on a regular bus route of a contiguous receiving district, or as an alternative, the resident district shall pay the parent/guardian for providing this transportation. In either situation the resident district is not obligated to expend more than the average cost per pupil transported amount established for that district for the previous school year. If the resident district provides the transportation, it shall determine that it is able to perform this function at a cost not in excess of the average cost per pupil transported for the resident district as established the previous year. It shall not assess any additional cost to the parent/guardian for providing transportation. If the district chooses to reimburse the parent/guardian for providing transportation, to determine the amount to be reimbursed, the district shall use the provisions of Iowa Code subsection 285.1(3). This reimbursement shall not exceed the average cost per pupil transported for the resident district as established the previous year. The resident district may withhold from the amount it is required to pay to a receiving district for an open enrollment pupil the actual amount or the average cost per pupil transported amount it pays for transportation assistance, whichever is the lesser amount.

**17.9(3) *Economic eligibility requirements for transportation.*** A parent/guardian shall be eligible for transportation assistance from the resident district if the household income of the parent/guardian is at or below 160 percent of the federal income poverty guidelines as stated by household size. Since the federal income poverty guidelines are adjusted each year, the department of education shall provide revised eligibility guidelines to school districts each year.

**281—17.10(282) Method of finance.** Open enrollment options shall be made available for pupils at no instructional cost to their parents/guardians. Open enrollment pupils shall be considered enrolled resident pupils in the resident district and shall be included in the certified enrollment count of that district for the purposes of generating school foundation aid.

**17.10(1) Full-time pupils.** For full-time pupils, the resident district shall pay each year to the receiving district an amount equal to the state cost per pupil for the previous year plus phase III money equal to the per pupil amount for the previous year as provided by Iowa Code chapter 294A plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4.

**17.10(2) Dual enrolled pupils.** For home-schooled pupils who are dual enrolled, the resident district shall pay each year to the receiving district an amount equal to .1 times the state cost per pupil for the previous year plus phase III money equal to .1 times the per pupil amount allocated for the previous year as provided by Iowa Code chapter 294A plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4.

**17.10(3) Home school assistance program pupils.** For home-schooled pupils who are registered for a home school assistance program, the resident district shall pay each year to the receiving district an amount equal to .6 times the state cost per pupil for the previous year plus phase III money equal to .6 times the per pupil amount for the previous year as provided by Iowa Code chapter 294A plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4.

**17.10(4) Transportation assistance.** The resident district may deduct any transportation assistance funds for which the pupil is eligible as provided by subrule 17.9(2).

**17.10(5) Method of payment.** These moneys shall be paid to the receiving district on a quarterly basis. The district cost per pupil for nonspecial education students shall be the cost calculated each year for the school year preceding the school year for which the open enrollment takes place. Costs for special education students shall be as outlined in rule 17.11(282).

**17.10(6) Partial-year situations.** In the event that the pupil who is under open enrollment withdraws from school, moves into the district of attendance, moves out of state, moves to another district in the state of Iowa and elects to attend that district, graduates at mid-year, is allowed to return to the district of residence during the school year, or other similar set of circumstances that result in the pupil no longer attending in the receiving district, payment of both cost per pupil and phase III funds will be prorated based on the number of quarters of school enrollment.

**17.10(7) Late transfers.** The resident district and the receiving district boards by mutual agreement may effectuate the transfer of an open enrollment pupil at any time following receipt of a petition for transfer which is approved by the two boards. If this transfer is made after the third Friday in September, the resident district is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment transfer.

**17.10(8) Whole grade sharing pupils.** If the resident district and the receiving district have entered into a whole grade sharing agreement that includes the grade level of an open enrolled pupil, that pupil shall be considered a shared pupil for finance and transportation purposes. This subrule shall become effective with the 1994-95 school year.

**281—17.11(282) Special education students.** If a parent/guardian requests open enrollment for a pupil requiring special education, as provided by Iowa Code chapter 256B, this request shall receive consideration under the following conditions. The request shall be granted only if the receiving district is able to provide within that district the appropriate special education program for that student in accordance with Iowa rules of special education, 281—41.84(256B,273,34CFR300). This determination shall be made by both the resident district and the receiving district before approval of the application. In a situation where the appropriateness of the program is in question, the pupil shall remain enrolled in the program of the resident district until a final determination is made. If the appropriateness of the special education program in the resident district is questioned by the parent, then the parent should request a due process hearing as provided by 281—41.113(1). If the appropriateness of the special education program in the receiving district is at issue, the final determination of the appropriateness of a special education instructional program shall be the responsibility of the director of special education of the area education agency in which the receiving district is located, based upon the decision of a diagnostic-education team from the receiving district which shall include a representative from the resident district that has the authority to commit district resources.

District transportation requirements, parent/guardian responsibilities and, where applicable, financial assistance for an open enrollment special education pupil shall be as provided by rule 17.9(282).

The district of residence shall pay to the receiving district on a quarterly basis the actual costs incurred by the receiving district in providing the appropriate special education program. These costs shall be based on the current year expenditures with needed adjustments made in the fourth quarter payment. The responsibility for ensuring that an appropriate program is maintained for an open enrollment special education pupil shall rest with the resident district. The receiving district and the receiving area education agency director shall provide, at least on an annual basis, evaluation reports and information to the resident district on each special education open enrollment pupil. The receiving district shall provide notice to the resident district of all staffings scheduled for each open enrollment pupil. For an open enrolled special education pupil where the receiving district is located in an area education agency other than the area education agency within which the resident district is located, the resident district and the receiving district are required to forward a copy of any approved open enrollment request to the director of special education of their respective area education agencies. Any monies received by the area education agency of the resident district for an approved open enrollment special education pupil shall be forwarded to the receiving district's area education agency.

**281—17.12(282) Laboratory school provisions.** A parent/guardian may make a request for open enrollment transfer to a laboratory school operated by the state board of regents. The regents institution operating a laboratory school and the board of directors of the public school district in which the laboratory school is located shall develop a transfer policy. This policy shall include:

1. A provision that the total number of pupils enrolled in a laboratory school in any one year shall not exceed 670 pupils.
2. Provisions to protect and promote the quality and integrity of the teacher education program of the laboratory school.

3. Provisions to protect and promote the viability of the education program of the public school district.

4. The order in which and the reasons why requests to transfer to the laboratory school shall be considered.

The denial of a request to transfer to a laboratory school is not subject to appeal by a parent/guardian under Iowa Code section 290.1.

A pupil that is accepted for open enrollment transfer to a laboratory school shall not be included in the basic enrollment of the resident district with the laboratory school reporting the enrollment directly to the department of education with the following exception. If the number of pupils enrolled in the laboratory school from a school district during the current year exceeds the number enrolled from that district during the 1989-1990 school year, the pupils representing the difference between the current and the 1988-1989 school year enrollment for the district shall be included in the basic enrollment of the resident district with the district retaining the money generated through the foundation aid formula.

**281—17.13(282) Applicability.** For implementing the open enrollment provisions of Iowa Code section 282.18, the provisions of this chapter shall be retroactively applicable to June 5, 1989.

These rules are intended to implement Iowa Code section 282.18.

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